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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,408	12/05/2005	Krzysztof D. Malowaniec	1703 1489US	7186

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DREISS, FUHLENDORF, STEIMLE & BECKER  
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GERMANY

EXAMINER

KIDWELL, MICHELE M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/559,408	<b>Applicant(s)</b> MALOWANIEC, KRZYSZTOF D.	
	<b>Examiner</b> Michele Kidwell	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/05/05</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 16 – 19, 21 – 24 and 26 – 30 are rejected under 35 U.S.C. 102(a) as being anticipated by EP 1 250 940 A1.

With reference to claim 16, EP 1 250 940 A1 ('940) discloses a suction body component for long-term storage of body liquids in absorbing, skin-friendly, single-use products, the suction body component comprising: a carrier material (page 15, lines 15 – 24); and a particulate, super-absorbing polymer material, said super-absorbing polymer material (absorbent core) having a core with an outer surface, wherein at least

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part of said outer surface (topsheet) comprises a coating agent for reducing an absorption rate of said core, said coating agent comprising a first skin care product as set forth on page 14, [0100 – 0101].

As to claim 17, '940 discloses a suction body component wherein said core comprises a second or said first skin care product as set forth on page 14, [0100 – 0101].

With reference to claim 18, '940 discloses a suction body component wherein said core comprises at least 50% or at least 65% of said second or said first skin care product in said super-absorbing polymer material as set forth on page 14, [0103].

As to claim 19, '940 discloses a suction body component wherein said first skin care product is water-soluble as set forth on page 14, [0098].

With reference to claim 21, '940 discloses a suction body component wherein said first skin care product comprises a plant component, a plant extract, plant oil, or plant distillate as set forth on page 13, [0086].

As to claims 22 – 23, see pages 6 – 8, [0048 – 0061].

With reference to claim 24, '940 discloses a suction body component wherein said carrier material comprises cellulose fibers, synthetic fibers, a foamed material, a porous matrix, and/or a thermoplastic synthetic matrix as set forth on page 24, [0190].

Regarding claim 26, '940 discloses a suction body component wherein said super-absorbing polymer material is disposed over a large surface area of said carrier material to form a layer as set forth on page 21, [0154].

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As to claim 27, '940 discloses an absorbing single-use product comprising a suction body component wherein the product comprises a top sheet facing a users body (primary/secondary fluid distribution layer or fluid storage layer or dusting layer) and a back sheet (page 23, [0181] facing away from the user's body, said top and said back sheets surrounding and sandwiching the suction body component as set forth on page 21, [0154].

As to claim 28, '940 discloses an absorbing single-use product comprising a suction body component wherein at least one further liquid-permeable layer (primary/secondary fluid distribution layer or fluid storage layer or dusting layer) is disposed above the suction body component at a user's body side as set forth on page 21, [0156 – 0162].

As to claims 29 and 30, '940 discloses the use of the suction body component as claimed for disposing skin care products onto human skin to product a product to improve health of human skin as set forth on page 3, [0013] and page 5, [0033].

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1 250 940 A1.

The difference between '940 and claim 20 is the provision that the skin care product comprises a vitamin.

It would have been obvious to one of ordinary skill in the art to modify the skin care product to include a vitamin because '940 teaches that the articles of the present invention seek to maintain or even improve skin health. See page 5, [0033]. Vitamins are well known in the art for the same purpose. Therefore, one of ordinary skill in the art would have been motivated to include a vitamin in the composition as claimed.

The difference between '940 and claim 25 is the provision that the particulate super-absorbing polymer material is homogeneously bound in the carrier materials.

Initially, the examiner notes that the process by which the material is bound is considered as a product by process limitation.

'940 teaches a particulate super-absorbing polymer material that is disposed between and connected to two outer layers. See page 21, [0154]

It would have been obvious to one of ordinary skill in the art to bond the layer together in order to hold the product together and promote a stable product.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is

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571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Michele Kidwell  
Primary Examiner  
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